

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

First Named		Confirmation No: 1329
Inventor :	Anthony K, Priborsky	
Appln. No.:	10/626,467	Group Art Unit: 2475
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For :	Dynamic Control of Physical Layer Quality on a Serial Bus	Examiner: Phan, Man U.
Docket No.:	S104.12-0043/ STL11301	

PRE-APPEAL BRIEF REQUEST FOR REVIEW

ELECTRONICALLY FILED AUGUST 25, 2010

Sir:

Applicants respectfully request a Pre-Appeal Brief Review of the rejection of claims 1-4 and 7-9 under 35 U.S.C. § 103(a) based on Ghaffari et al., U.S. Patent No. 6,829,663 (“Ghaffari”) and Lo et al., U.S. Publication No. 2004/0010625 (“Lo”), since the rejection is based on clear error of fact and omission of essential elements to establish a prima facie rejection.

ARGUMENT

In the Final Office Action, Claims 1-4, 7-11, 13, 16-19 and 23-26 were rejected under 35 U.S.C. 103(a) as being unpatentable over Ghaffari et al., U.S. Patent No. 6,829,663 (“Ghaffari”) in view of Lo et al., U.S. Publication No. 2004/0010625 (“Lo”). An Amendment After Final was filed in response to the Final Office Action. In the Advisory Action, the Examiner indicated that the Amendment After Final was entered and that claims 10, 11, 13, 16-19 and 23-26 were allowed due to the amendments made in the Amendment After Final. Thus, the following arguments relate only to claims 1-4 and 7-9 and address the arguments in the Response to Arguments section of the Final Office Action since no further arguments were presented in the Advisory Action.

Claim 1, which is an apparatus claim, includes:

- a first line receiver coupled to receive first physical layer quality data; and
- a first line driver coupled to transmit control data that includes an adjustable pre-emphasis and that has a response to the first physical layer quality data, the control data comprises data indicating a comparison of the received first physical layer quality data to a quality standard,

the first physical layer quality data and the quality standard are independent of any synchronization data.

The Response to Arguments section of the Final Office Action indicates that Applicant's claim amendments and argument in a previous Amendment, which was filed on March 10, 2010, essentially amount to Applicant taking a position that the cited references fail to teach or suggest "physical layer quality" in a communication system. Applicant asserts that this is an oversimplification of the amendments and argument in the prior Amendment.

Applicant respectfully points out that independent claim 1 was amended to clarify that the first physical layer quality data and the quality standard "are independent of any synchronization data."

The Response to Arguments section of the outstanding Office Action notes that Lo shows, in FIG. 3, a block diagram of an interface device used for the synchronous transfer of data over serial ATA. This appears to fundamentally differ from the claimed "first physical layer quality data" and "quality standard," which are "independent of any synchronization data."

Further, as argued in the previous response, Ghaffari discloses primitives and primitive encoder 216, and primitive decoder 212, in a link layer in FIG. 2 and at column 6, lines 10-14. Primitives in Ghaffari are simply commands or indications of events. These primitives in Ghaffari are transmitted over a communication channel independently of the quality of the communication channel. Ghaffari appears to assume a certain quality level of the communication channel when the primitives are transmitted and includes nothing about physical layer quality data and a quality standard that are independent of any synchronization data. Thus, Ghaffari and Lo, taken individually or in combination, do not teach or expressly or impliedly suggest all the elements of independent claim 1. Therefore, independent claim 1 and dependent claims 2-4 and 6-9 are believed to be allowable over the art cited in the Office Action.

AGR/kmm